REMARKS

Reconsideration of this application as amended is requested.

The drawings were objected to for various reasons. Proposed replacement sheets accompany this amendment for the Examiner's approval. The first objection related to the occurrence of a reference numeral "32" in Figs. 3A and 3B and the absence of any discussion relating to reference numeral 32 in the specification. The omission relates to use of the reference numeral "34" in the specification to refer to two features of the drawings. The specification (paragraph [0017]) has been amended to change one such reference to "32". The replacement sheets clarify the features to which numerals 32 and 34 apply, delete reference to "molten wax" which appeared in Fig. 4 and eliminate solid black areas which were found in Figs. 6 and 7. Other minor changes per the Examiner's suggestion have been made to the specification. These include an amendment to refer to Figs. 4 - 7 individually in the brief description of the drawings.

Claim 14 was objected to on account of appearing incomplete. The claim has been amended to delete the word "after" from the phrase "after leaving a gap . . .".

Claims 1, 4, 8, 10 and 12 were rejected under 35 USC 102(e) based on Jensen (US Pub No. 2003/0035291). Claims 13 and 14 were rejected under the same section based on Wohl (US-Pat. No. 5,597,300). Claim 2 has been amended to incorporate the limitations of claims 1 and 3 (with corresponding changes to dependent claims 4 -12) and thus the anticipation rejections based on Jensen are mute. Claim 13 has been amended to improve clarity. It should be noted that by the amendments the claims no longer cover the embodiment of the invention disclosed in Fig. 3B. Claims 2, 3, 5-7, 9 and 11 were rejected under 35 USC 103(a) as obvious over Jensen (US-Pat. 6,616,308) in view of Wohl. The applicability of Wohl is contested by argument.

Claims 1, 3, 6, 8, 10 and 12 have been canceled. Claims 2, 4, 5, 7, 9, 11, 13 and 14 remain active.

The principal contention of the Action with which the inventors take issue is that the Wohl '300 patent teaches "bonding between layers *that retain the insert* . . ." based on col. 9, lines 9-19 of Wohl. While Wohl was interested in bonding between different layers of wax, he did not teach bonding between an interior object and an outer wax shell. Rather, the bonding at issue was between different layers of an outer shell. Fig. 2A of the Wohl patent (reproduced at right) illustrates this. Wohl provided a candle with an outer shell constructed from a plurality of outer layers 200-202. These segments are layered as "concentric rings, oriented in successive distinct longitudinal positions about the central axis of the candle, each sharing a common flat planar surface with the adjacent layers. See col. 4, lines 39-45.

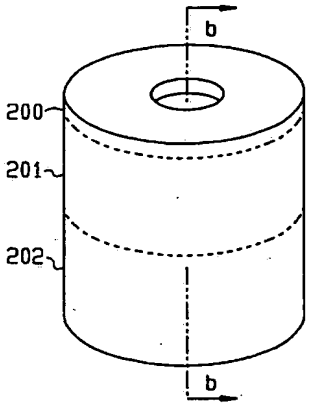


FIG. 2a

Wohl sought to bond or "knit" these layers together to build an outer shell by the process discussed in col. 9, lines 9-19. Such is clear from col. 9, lines 11-14 relating to the layers being differently colored and thus needing to be cast successively. The context in which the discussion occurs confirms this. Wohl beginning at col. 8, line 54 makes specific reference to the embodiment of Fig. 2. Wohl totally fails to make any teaching which would suggest pushing an insert into a molten pool of wax poured into a shell to force the wax into a bonding layer which forms on its cooling.

Claims 2 and 13 include clear limitations directed to this difference. Claim 2 provides:

> a wax bonding layer disposed in a portion of the gap between the insert and the interior surface of the wax shell to positionally

retain the insert in the wax shell while relieving and redirecting stress stemming from differential expansion and contraction of the insert and the wax shell due to changes in temperature.

Claim 13 provides:

after hardening of the shell making a second pouring of wax into the central cavity with the shell inverted, the second casting comprising a substantially reduced quantity of wax; and inserting a module into the central cavity with the shell still inverted and the second pour of wax still molten to displace the molten wax of the second pouring to form a bonding layer between the module and the shell upon cooling of the wax, the combined volume of the module and the wax from the second pouring being substantially less than that required to fill the central cavity . . .

Wohl takes into account differences in coefficients of expansion of materials of molds used in the casting process, but not because these differences caused potential problems for completed products due to later changes in ambient temperature differences. Wohl was concerned strictly with production issues. At col. 6, lines 32-40 Wohl states that:

This mold is preferably a hollow flexible tapered cylinder. The preferred material is a polymer, such as polyethylene, polypropylene, or high molecular weight polyethylene. These materials have the proper thermal expansion coefficient . . . to allow easy removal without marring the final product . . .

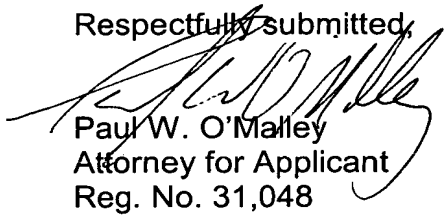
Brief note is taken here of application of both the Jensen '308 patent and the Jensen 2003 publication. Two of the present inventors were also inventors on the Jensen '308 patent. Both references are directed to the same invention, but on close examination a possible discrepancy between the documents appeared. Briefly put, Fig. 3 of the patent appears to show an opening between insert and shell due to a slight cleavage at the lower right hand corner of the imitation candle between a

battery housing 36 and the interior surface of the cavity in the wax shell. Fig. 3 of the earlier published patent application does not show any such cleavage. Apparently, in preparation of formal drawings, the battery housing was shifted slightly creating suggestion of a gap. No gap however was described in the specification of either reference as occurring between the battery housing and the wax shell and it is difficult to see how the battery housing would be retained in the wax shell if such a gap were present. The present application at paragraphs [0005-0008] was directed to discussion of WO 03/016783 (the international publication of the Jensen '308 patent) and states at paragraph [0008] that "the plastic module may be fixed in position in a mold and hot wax poured around the module, adding wax as earlier poured wax cools and shrinks, until all voids . . . are filled" or that the module could be inserted into a hollow shell and wax added to fill the gaps. It is applicants view that the prior Jensen reference does not teach a gap as defined by the present application between an insert for an imitation candle and the hollow outer shell of the candle. However, in view of the present amendments, and the tighter definition of the bonding layer now required, this distinction is mute. The claims now specify that wax for the bonding layer be poured before introduction of the battery module (i.e. the insert). Claim 13 further specifies that the combined volume of the bonding layer and inserted module is less than that of the central cavity. Claim 2 implicitly makes a similar requirement by providing that the bonding layer occupies a "portion" of the gap between the insert and the interior surface of the shell.

The other prior art made of record is not considered pertinent to Applicant's disclosure. The remaining dependent claims include additional limitations and distinguish still further over the art of record.

Applicant believes the Claims as amended are in condition for allowance and respectfully requests favorable action by the Examiner.

Respectfully submitted,



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